



Application No. (if known): 10/088,926

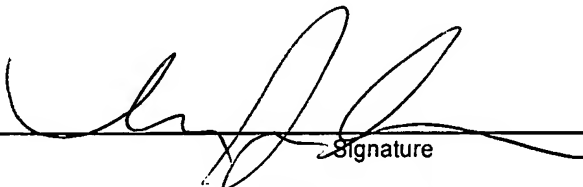
Attorney Docket No.: 01329/000K329-US0

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Transmittal of Appeal Brief (1 page)

Fee Transmittal (1 page)

Appellants' Brief on Appeal Under 37 C.F.R. § 41.37 (17 pages, in triplicate)

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Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818). FEE TRANSMITTAL For FY 2005		Complete if Known	
		Application Number	10/088,926-Conf. #2678
		Filing Date	March 20, 2002
		First Named Inventor	Timo Juhani Kangas
		Examiner Name	J. H. Zurita
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27	Art Unit	3625	
TOTAL AMOUNT OF PAYMENT	(\$) 500.00	Attorney Docket No.	01329/000K329-US0

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☐ Deposit Account Deposit Account Number: 04-0100 Deposit Account Name: Darby & Darby P.C.

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayment of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims **Extra Claims** **Fee (\$)** **Fee Paid (\$)** **Multiple Dependent Claims**

_____ - = _____ x _____ = _____ **Fee (\$)** **Fee Paid (\$)**

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims **Extra Claims** **Fee (\$)** **Fee Paid (\$)**

_____ - = _____ x _____ = _____

HP = highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

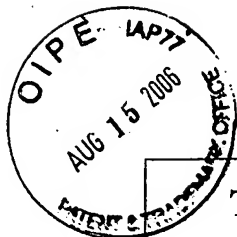
Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____ - 100 = _____	/50	_____ (round up to a whole number) x _____	= _____	

4. OTHER FEE(S)

	Fees Paid (\$)
Non-English Specification, \$130 fee (no small entity discount)	
Other (e.g., late filing surcharge): <u>1402 Filing a brief in support of an appeal</u>	<u>500.00</u>

SUBMITTED BY			
Signature		Registration No. (Attorney/Agent)	47,698
Name (Print/Type)	Richard J. Katz	Telephone	(212) 527-7700
		Date	August 15, 2006

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TRANSMITTAL OF APPEAL BRIEF

Docket No.
01329/000K329-US0


In re Application of: Timo Juhani Kangas

Application No.
10/088,926-Conf. #2678Filing Date
March 20, 2002Examiner
J. H. ZuritaGroup Art Unit
3625Invention: METHOD AND ARRANGEMENT FOR DISTRIBUTING INFORMATION AND SERVICES
THROUGH A NETWORKTO THE COMMISSIONER OF PATENTS:Transmitted herewith is the Appeal Brief in this application, with respect to the Notice of Appeal
filed: June 15, 2006 .

The fee for filing this Appeal Brief is \$ 500.00 .

☒ Large Entity ☐ Small Entity☐ A petition for extension of time is also enclosed.

The fee for the extension of time is .

☒ A check in the amount of \$ 500.00 is enclosed.☐ Charge the amount of the fee to Deposit Account No. 04-0100 .
This sheet is submitted in duplicate.☐ Payment by credit card. Form PTO-2038 is attached.☒ The Director is hereby authorized to charge any additional fees that may be required or
credit any overpayment to Deposit Account No. 04-0100 .
This sheet is submitted in duplicate.
Richard J. Katz
Attorney Reg. No. : 47,698
DARBY & DARBY P.C.
P.O. Box 5257
New York, New York 10150-5257
(212) 527-7700

Dated: August 15, 2006

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Docket No.: 01329/000K329-US0
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Timo Juhani Kangas

Application No.: 10/088,926

Confirmation No.: 2678

Filed: March 20, 2002

Art Unit: 3625

For: METHOD AND ARRANGEMENT FOR
DISTRIBUTING INFORMATION AND
SERVICES THROUGH A NETWORK

Examiner: J. H. Zurita

APPELLANTS' BRIEF ON APPEAL UNDER 37 C.F.R. § 41.37

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Dear Sir:

Appellants submit this brief in accordance with 37 C.F.R. § 41.37 in support of their appeal from the Final Office Action, mailed December 15, 2005 by Examiner Khanh Q. Dinh, and the Advisory Action, mailed June 7, 2006, in the above-identified patent application.

In accordance with 37 C.F.R. §§ 41.31 and 41.37, this brief follows the June 15, 2006 filing of a Notice of Appeal and payment of the required fee. This brief is in support of said Notice of Appeal. Appellants submit that this Appeal Brief is timely filed, and requires no extension of time fee. However, the Commissioner is hereby authorized to charge any unpaid fees deemed required in connection with this Appeal Brief, or to credit any overpayment, to Deposit Account No. 04-0100.

I. REAL PARTY IN INTEREST

The real party in interest for this appeal is Tecnomen Oyj. The inventor having assigned his rights in and to this application to Tecnomen Oyj, such assignment having been duly recorded.

II. RELATED APPEALS AND INTERFERENCES

To appellants' knowledge, there are no other appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

Claims 1-13 are pending in the application.

This appeal is in respect of the rejection of claims 1-13.

There are 13 claims pending in the application, *i.e.*, claims 1-13. They are reproduced in the **Claims Appendix**. The current status of the application's claims is as follows:

1. Claims canceled: none;
2. Claims withdrawn from consideration but not canceled: none;
3. Claims pending: 1-13;
4. Claims allowed: none;
5. Claims rejected: 1-3.

Claims 1, 8, 9, 11, and 12 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-6 and 8-10 stand rejected under 35 U.S.C. § 102(b) as

3) Whether claims 7 and 13 can properly be rejected as obvious under 35 U.S.C. § 103(a) based on the combination of Goldhaber and the Examiner's statement of what was known in the art at the time of the invention.

VII. ARGUMENT

Grounds of Rejection No. 1

Claims 1 and 11 recite a "a preliminary order for crediting accounts associated with the intended recipients." Claims 8, 9 and 12 each recite "a preliminary order for crediting the accounts associated with the certain subscribers." The Examiner contends that the disclosure of the "... preliminary order for crediting the accounts . . .," does not provide details. Based on this perceived lack of disclosure within the written description, the Examiner states that "[f]or examination purposes, the Examiner will interpret the phrase . . . [to mean] a maximum amount or a fixed amount that a provider is willing to compensate those customers that access the information." (December 15, 2005 Detailed Action, page 3.)

Appellant respectfully disagrees with the Examiner's position. The specification clearly explains that "[t]he preliminary nature of the order means that the actual crediting is not yet accomplished, because there is no evidence about the intended recipients actually receiving the information or service to be transmitted." (Specification, page 7, lines 30-34.) Once there is evidence that the intended recipients have actually received the information or service to be transmitted, then the crediting will occur. Further, the Specification discloses other embodiments of the present invention and discusses the preliminary order, e.g., page 9, lines 20-35.

Because there is clear disclosure within the specification for the claim language of a "preliminary order for crediting the accounts . . .," there is no basis for the Examiner to interpret the phrase to mean a maximum or fixed amount. The Examiner's interpretation of this claim language does not comport with the unequivocal definition provided by the above-cited portion of the specification. Indeed, in contrast to the Examiner's interpretation of "a maximum amount or a fixed amount" the specification clearly states that "the actual crediting is not yet accomplished."

Accordingly, Appellant submits that the written description does particularly point out the claimed subject matter.

Most importantly, the basis for the objection is without merit. The cited portions of the specification clearly provide sufficient details of the “preliminary order” to support the claim language. Therefore, the Board should overrule the Examiner as to this objection to claims 1 and 11.

Grounds of Rejection No. 2

Appellant submits that Goldhaber is directed to a system which, as shown in Fig. 2 is directed to a “positively priced information” system in which a consumer pays for information, e.g., a television program. As shown in Fig. 3, Goldhaber is directed to a “negatively priced information” system in which a consumer is paid for paying attention to information, e.g., an advertisement. In both systems the request for payment or the offer for payment is sent to the consumer who can act on it. If acted on, information debiting the customer’s account or crediting it is sent to an accounting system. Consumers may be located for targeted approaches by reference to a data base of digitally stored demographic profiles of potential users. Information can be routed to users based on demographics.

According to the present invention, as claimed, when the consumer is targeted to receive information, and the sender is willing to compensate the consumer for paying attention to it, the present invention transmits to the accounting system “through the computer or cellular network a preliminary order for crediting accounts associated with the intended recipients. Thus, in the Goldhaber system the sender of the information could promise to pay and then not pay. In the present system, since a preliminary credit has already been sent to the accounting system, as soon as the user views the information “a response to an indication of a certain recipient having accessed said piece of information or service” is generated and causes the accounting service to credit “an account associated with said certain recipient.” Goldhaber does not teach, nor suggest, transmitting

“a preliminary order for crediting accounts” associated with the intended recipients, as required by the claims 1-6 and 8-12.

The Examiner relies on Goldhaber, Fig. 2 and the related text as disclosing “transmitting through the computer or cellular network a preliminary order for crediting accounts associated with the intended recipients.” (December 15, 2005 Detailed Action, page 4.) Appellant submits that Goldhaber Fig. 2 and its related text, (*see* col. 10, lines 8-38), discloses that a consumer requests information, the consumer is asked to compensate the provider for the information, the consumer pays for the information, and the provider provides the information. This section of Goldhaber has nothing to do with transmitting a preliminary order for crediting accounts, as required by the claimed invention. In fact this is the “positive priced information system.” As noted above, even in the negative priced information system of Fig. 3, the preliminary order is not used by Goldhaber.

Further, the Examiner contends that the Appellant has relied on features not present in the claims. (*See*, December 15, 2005 Detailed Action, page 9.) However, in the previous Response, Appellant merely asserted that one of the advantages of the “preliminary” feature is that by transmitting a preliminary crediting order before transmitting the information or service to the subscriber terminals, there is a reduction in the service provider's chance for cheating, i.e., the accounting system already has the credit information and will act on it in response to the indication of access. This assertion of advantage should not distract the Examiner from the fact that the “preliminary” feature recited in the claims is distinguishable over the Goldhaber reference itself.

Claims 2-6 and 11 depend from claim 1. Claims 9-10 and 12 depend from claim 8. These dependent claims are patentable over Goldhaber for at least the same reasons as their respective base claims. Therefore, for the reasons stated above, Appellant respectfully submits that Goldhaber does not disclose each and every feature of claims 1-6 and 8-12,

Grounds of Rejection No. 3

Independent claim 7 is directed to a method for distributing information or services through a computer or a cellular network, and recites the step of crediting an account, which includes certain recited substeps. The Examiner acknowledges that Goldhaber fails to disclose “that crediting an account associated with said certain recipient comprises the substeps of defining the time it has taken for said indication to be received and crediting said account by an amount which is inversely proportional to said time.” (December 15, 2005 Detailed Action, page 7.) However, the Examiner contends that Goldhaber discloses the use of time-sensitive incentives such as coupons and relies on the Examiner’s own personal knowledge that it would have been obvious “to extend Goldhaber to disclose time-sensitive credits, **perhaps** based on a subscriber’s response time.” (Emphasis added.)

Appellant submits that Goldhaber’s disclosure of coupons does not make obvious the claimed feature of “crediting said account by an amount which is inversely proportional to said time,” where the time is “the time taken for said indication to be received.” Goldhaber neither discloses, nor suggests, that its coupons are time-sensitive. And even assuming that Goldhaber were to suggest that the coupons were time-sensitive, such coupons typically have full value until their expiration date, after which they have no value, a step function. Thus they do not decrease in value with time. They either have value or not. As a result, it would not have been obvious to one of ordinary skill to arrive at assigning value to the coupon which is inversely proportional to the time taken to receive an indication that a recipient accessed a piece of information, a declining ramp function.

Appellant submits that the Examiner has impermissibly relied on the disclosure of the present application “to reconstruct the patentee’s claimed invention from prior art by using the patentee’s claim as a ‘blueprint’ when prior art references require selective combination to render obvious a subsequent invention.” (*Dow Chemical Co.*, 5 U.S.P.Q. 2d at 1532, *citing Interconnect Planning Corporation v. Feil*, 774 F.2d 1132, 227 U.S.P.Q. 543, 551 (Fed. Cir. 1985).) Further, the Examiner’s example does not work in the same way as the claimed invention.

Goldhaber at the time of the invention would not be motivated to modify Goldhaber's coupons to be valued on an inverse time-variant basis or a ranking of responses. Therefore, the Examiner has failed to meet the burden of establishing a *prima facie* case of obviousness.

For all of the reasons set forth above, the rejections of claims 1-13 should be reversed. Appellant respectfully requests that the application be remanded to the Primary Examiner with an instruction to withdraw the rejections, and pass the case to allowance.

Respectfully submitted,

By 

Richard J. Katz

Registration No.: 47,698

Dated: August 15, 2006

DARBY & DARBY P.C.
P.O. Box 5257
New York, New York 10150-5257
(212) 527-7700
(212) 527-7701 (Fax)
Attorneys/Agents For Appellant

APPENDIXES

CLAIMS APPENDIX

The following is a copy of the claims involved in the appeal:

1. A method for distributing information or services through a computer or cellular network, comprising the steps of:
composing a piece of information or service to be distributed through the computer or cellular network;
compiling a list of intended recipients;
transmitting through the computer or cellular network a preliminary order for crediting accounts associated with the intended recipients;
releasing said piece of information or service so that said piece of information or service becomes accessible to the recipients appearing on said list; and
as a response to an indication of a certain recipient having accessed said piece of information or service, crediting an account associated with said certain recipient.
2. The method according to claim 1, wherein the step of crediting an account associated with said certain recipient comprises the substeps of:
identifying an account representing the rights of said certain recipient to use certain services through said network; and
crediting said identified account.
3. The method according to claim 1, wherein the step of crediting an account associated with said certain recipient comprises the substeps of:
identifying an account the identifier of which has been intentionally provided by said certain recipient; and
crediting said identified account.

crediting said account by an amount which is inversely proportional to said time.

8. An arrangement for distributing information or services through a network, comprising:
 - a source of information or services;
 - a number of subscriber terminals;
 - means for maintaining accounts associated with certain subscribers;
 - means for transmitting to the means for maintaining accounts a preliminary order for crediting the accounts associated with the certain subscribers;
 - means for providing an indication of a certain recipient having accessed a piece of information or service; and
 - means for responding to said indication by crediting an account associated with said certain recipient.
9. The arrangement according to claim 8, further comprising:
 - a service provider's terminal;
 - a database server; and
 - an account server,wherein said service provider's terminal is arranged to operate as said source of information or services, said account server is arranged to operate as said means for maintaining accounts associated with certain subscribers and for receiving the preliminary order for crediting the accounts associated with the certain subscribers, and said database server is arranged to maintain data identifying certain subscribers and associating the identified subscribers with certain contact information through which information or services is deliverable to the identified subscribers.

RELATED PROCEEDINGS APPENDIX

There are no related proceedings for this matter.